

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ANTONIA ROMAN,

Plaintiff,

-against-

GRETCHEN P. CAMPBELL,

Defendant.
-----X

Case No.: 07 CIV 8055
(CLB)

**NOTICE OF
APPEARANCE AND
ANSWER**

PLEASE TAKE NOTICE, that the Defendant, **GRETCHEN P. CAMPBELL**, hereby appears in this action by her attorneys, **BURATTI, KAPLAN, McCARTHY & McCARTHY**, and interposes the following Notice of Appearance and Answer to Complaint of the Plaintiff, **ANTONIA ROMAN**, as follows:

ANSWERING THE CAUSE OF ACTION

The Defendant alleges that she is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraphs numbered "1" and "5" in the complaint.

The Defendant denies upon information and belief the allegations contained in Paragraphs "9", "10", "11", "14", "15", "16" and "17" in the complaint.

The Defendant denies upon information and belief the allegations contained in Paragraphs numbered "3", "4", "12" and "13" in the complaint and respectfully refers this matter to the trial Court as a question of law.

The Defendant denies upon information and belief the allegations contained in Paragraph numbered "8" in the complaint except to admit contact.

**AS AND FOR A FIRST SEPARATE, AFFIRMATIVE AND COMPLETE
DEFENSE TO PLAINTIFF'S ALLEGED CAUSE OF ACTION,
DEFENDANT RESPECTFULLY SETS FORTH AND ALLEGES UPON
INFORMATION AND BELIEF:**

That any verdict in the within action, for past, present and future medical care, dental care, custodial care, or rehabilitation services, loss of earnings or other economic loss, should be reduced by the amount that any such expense has or will with reasonable certainty be replaced or indemnified in whole or in part from any collateral source, in accordance with the provisions and limitations of Section 4545(c) of the New York State CPLR.

**AS AND FOR A SECOND SEPARATE, AFFIRMATIVE AND
COMPLETE DEFENSE TO PLAINTIFF'S ALLEGED CAUSE OF
ACTION, DEFENDANT RESPECTFULLY SETS FORTH AND ALLEGES
UPON INFORMATION AND BELIEF:**

Plaintiff, **ANTONIA ROMAN**, has failed to sustain a serious physical injury as defined by Article 51 of the Insurance Law of the State of New York.

**AS AND FOR A THIRD SEPARATE, AFFIRMATIVE AND COMPLETE
DEFENSE TO PLAINTIFF'S ALLEGED CAUSE OF ACTION,
DEFENDANT RESPECTFULLY SETS FORTH AND ALLEGES UPON
INFORMATION AND BELIEF:**

Plaintiff, **ANTONIA ROMAN**, is limited to recovery for basic economic loss as provided for by the no-fault provisions of Article 51 of the Insurance Law of the State of New York.

**AS AND FOR A FOURTH SEPARATE, AFFIRMATIVE AND COMPLETE
DEFENSE TO PLAINTIFF'S ALLEGED CAUSE OF ACTION,
DEFENDANT RESPECTFULLY SETS FORTH AND ALLEGES UPON
INFORMATION AND BELIEF:**

Any damages sustained by the Plaintiff, **ANTONIA ROMAN**, were caused by the culpable conduct of the Plaintiff, including contributory negligence or assumption of risk,

and not by the culpable conduct or negligence of the third-party defendant.

**AS AND FOR A FIFTH SEPARATE, AFFIRMATIVE AND COMPLETE
DEFENSE TO PLAINTIFF'S ALLEGED CAUSE OF ACTION,
DEFENDANT RESPECTFULLY SETS FORTH AND ALLEGES UPON
INFORMATION AND BELIEF:**

Plaintiff, **ANTONIA ROMAN**, failed to use or misused available seat belts, and thereby contributed to the alleged injuries.

WHEREFORE, the defendant demands judgment dismissing this Complaint, together with the costs and disbursements of this action.

Dated: Yonkers, New York
October 30, 2007

Yours, etc.

BURATTI, KAPLAN, McCARTHY & McCARTHY

By: _____
PHILIP M. AGLIETTI (PMA 7801)
Attorney for Defendant
GRETCHEN P. CAMPBELL
One Executive Boulevard, Suite 280
Yonkers, New York 10701
(914) 378-3900
Our File No.: 21937

To: **VLOCK & ASSOCIATES, P.C.**
Attorneys for Plaintiff
230 Park Avenue
New York, New York 10169
(212) 557-0020

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STATE OF NEW YORK)
):SS.:
COUNTY OF WESTCHESTER)

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**AFFIRMATION OF
SERVICE**

VINCENT P. MOLLICONE, being duly sworn, deposes and says: Deponent is not a party to the action, is over 18 years of age and resides in Putnam County.

On October 30, 2007, deponent served the within **NOTICE OF APPEARANCE AND ANSWER**, upon the following attorneys in this action, at the addresses indicted below, which addresses have been designated by said attorneys for that purpose by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

TO: Vlock & Associates, P.C.
230 Park Avenue
New York, New York 10169

VINCENT P. MOLLICONE

Sworn to before me on this
October 30, 2007.

CYNTHIA R. FRETWELL
Notary Public, State of New York
No. 01FR6132272
Qualified in Westchester County
Commission Expires **August 22, 2009**